

UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
WASHINGTON, DC

Served: December 14, 1992

FAA Order No. 92-69

In the Matter of:

WILLIAM H. MCCABE

)  
)  
) Docket No. CP90EA0306  
)  
)  
)

ORDER DISMISSING APPEAL

On July 2, 1992, Administrative Law Judge Burton S. Kolko issued a written initial decision granting Complainant's motion for decision and assessing Respondent a \$1,000 civil penalty. The law judge found that Respondent admitted the allegations of the complaint by having failed to file an answer. The law judge advised Respondent that he had 10 days from the date of the decision to file an appeal to the Administrator under Section 13.233, of the Rules of Practice, 14 C.F.R. § 13.233.<sup>1/</sup> The law judge provided Respondent with the address for filing an appeal to the Administrator.

More than three months after the law judge issued his initial decision, by letter dated October 21, 1992, Respondent asked the law judge to reconsider his decision. The law judge forwarded Respondent's request to the Administrator. After issuing the initial decision the law judge no longer had jurisdiction over the matter.

If Respondent's request to the law judge is construed as an appeal to the Administrator, it is untimely by over three months. The requirement for filing the notice of appeal in a timely fashion will be waived only for good cause. See In the Matter of Metz, FAA Order 90-3 (January 29, 1990). Respondent had been informed that an appeal of the law judge's decision

---

<sup>1/</sup> Section 13.233(a), 14 C.F.R § 13.233(a) provides in part: "[a] party shall file the notice of appeal not later than 10 days after entry of the oral initial decision on the record or service of the written initial decision on the parties...."

had to be filed with the Administrator within 10 days of the law judge's decision. Respondent does not explain why he waited over three months to appeal the law judge's decision. The record contains no evidence of good cause for waiving the requirement of filing a timely notice of appeal.

THEREFORE, IT IS ORDERED THAT:

Respondent's appeal is hereby dismissed.

THOMAS C. RICHARDS, ADMINISTRATOR  
Federal Aviation Administration



JAMES S. DILLMAN\*  
Assistant Chief Counsel

Issued this 14<sup>th</sup> day of December, 1992.

\* Issued under authority delegated to the Chief Counsel and the Assistant Chief Counsel for Litigation by Memorandum dated October 27, 1992, under 49 U.S.C. § 322(b) and 14 C.F.R. § 13.202. See 57 Fed. Reg. 58,280 (1992).